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point, we hesitate to accept the view presented in the text. It is difficult for us to understand how the older doctrine can be ascribed to a misconception of Lord Wensleydale's dictum in *Lynch v. Knight*, 9 H. L. C. 577, 598 (1861), when the New York Court of Appeals announced it in *Terwilliger v. Wands*, 17 N. Y. 53 (1858), and the English Court of Exchequer in *Allsop v. Allsop*, 5 H. & N. 534 (1860).

Undoubtedly, these volumes will be resorted to most frequently by the practitioner for authorities upon a particular topic, which at the moment demands his attention. He will dip into them, here and there, in accordance with the demands of such special quest, but rarely will he attempt to read them consecutively. Were he to make and persevere in such attempt, we fancy that he would be surprised by the stretch of legal domain which he would traverse, and would be impressed by the magnitude of the task involved in the production of this treatise.

Francis M. Burdick.

THE ORIGIN OF THE ENGLISH CONSTITUTION. By GEORGE BURTON ADAMS, Professor of History in Yale College. New Haven: YALE UNIVERSITY PRESS. 1912. pp. xii, 378.

Professor Adams' lucid and scholarly work will be warmly greeted by students of the early history of the English Constitution. For some time past the view that the Anglo-Saxon constitution survived in "unbroken continuity" into later ages has been giving place to the doctrine of the feudal character of constitutional institutions in the Anglo-Norman times. Readers of Professor Adams' articles in English and American historical periodicals have come to associate the name of the learned author with this newer line of thought. The present volume embodies these articles and elaborates the author's views in new chapters and various lengthy notes. It is a volume which students will read with great profit and which they will wish to place on their study-shelves alongside the writings of Haskins, McKeechie, Round and other present-day scholars.

The purpose of the author is "to point out the feudal origin of the English Constitution in its more distinctive features, and especially of the limited monarchy, and to show that the function which the Great Charter actually performed in the formation of the Constitution was to effect the transition of the fundamental principle of feudalism into the fundamental principle of the modern Constitution" (p. vii). This purpose is effected by devoting the first four chapters to the period before Magna Carta. Chapters I and II are introductory in character and deal with the institutions of the central government in their feudal form before any tendencies toward change manifest themselves. The third chapter is upon the "First Age of Change" and is concerned with the constitutional advance in the second half of the twelfth century. In this chapter it is shown that prior to Magna Carta the important changes in the Constitution are in the direction of a more powerful rather than in that of a limited monarchy. "The inevitable conclusion," says Professor Adams, "is that at the beginning of the thirteenth century England was still a completely feudal state, varying from its contemporaries not at all in the direction of a limited, but decidedly in the direction of an absolute monarchy. In all the changes which had occurred before 1215 there is no evidence of anything like the beginning of an institutional check upon the will of the sovereign. If the conditions of the time looked forward to any-

thing it was to an almost ideal absolutism, a government in which all the machinery should be operated by the king and exist only to give expression to his will, with no means of limiting that will or even of giving expression to a will in opposition" (p. 105). Chapter IV, upon "The Germ of the Constitution" shows us that "the first inclination of the constitution toward a limited monarchy" (p. 183) is to be found in Magna Carta. Chapter V is devoted to a careful analysis of Magna Carta. In the following chapter the immediate results of Magna Carta are traced. The last chapter is concerned with the end of the period of origin.

Professor Adams gives a somewhat narrow definition of the term "constitution." By this term "is not meant," he says, "the whole system of government, all the organs of the state, the whole political machinery, national and local. What is meant is the machinery of a limited monarchy, those devices by which an absolutism, once existing in fact, can be retained in form and theory while the real government of the state is transformed into a democratic republic" (p. 2). This definition of the term "constitution" is carefully explained by the author in his note on "The Limited Monarchy and the Constitution" (pp. 41-44). Adopting this definition, Professor Adams' thesis is that the English national Constitution is "a direct outgrowth of the earlier feudal constitution of the state; that it rests wholly upon foundations that were laid in the feudal age; that the distinctive features which made the English a constitution of a new type in the political history of the world came in the germ from feudal arrangements and were developed under the influence of principles derived from feudal law. The English limited monarchy of later times could never have been regarded as a direct outgrowth of the Saxon, non-feudal state, as it existed for instance under Cnut, except by a preconceived and strained interpretation of the facts of history. * * * It was the feudalization of England which resulted from the conquest that made the constitution possible, not by establishing a strong monarchy against which primitive Teutonic liberty reacted later, but by introducing with the strong monarchy a new conception of the relation of the king to those of his subjects who in that age constituted the nation, and who alone could constitute it, by introducing the definite contract-idea of the feudal system" (p. 3, note 2).

In the course of his elaboration of this view of the origin of the constitution, the author contends that tendencies toward absolutism were held in check by a principle which had its origin in feudalism—the principle that "there existed a body of understood, more or less definitely formulated rights which the king was bound to observe and which those who at any point of time formed the operative force of the nation, had the right to force him to observe if he showed himself disposed not to do so" (p. 157). The effect of Magna Carta, says Professor Adams, was to transfer this principle from decaying feudalism to the newer constitutional institutions that were then being gradually developed. By forcing John to grant the charter the nation forced him to promise that he would abide by the law; and if he refused, he could be compelled by the sixty-first clause of the charter which legalized insurrection (pp. 167, 177-185, 247). This fundamental principle of the constitution, that the king must obey the law, became firmly rooted in the age succeeding John's reign (pp. 314 *seq.*).

Harold D. Hazeltine.